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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

CHAPTER 11

Case No. 22-41414-nhl

MENDEL PANETH

Debtor and Debtor-in-Possession.

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TO THE HONORABLE NANCY HERSHEY LORD
US BANKRUPTCY JUDGE:

**APPLICATION FOR AUTHORITY TO ASSUME THE EXECUTORY CONTRACT
(LISTING AGREEMENT) AND TO RETAIN A REAL ESTATE BROKER**

The application of Mendel Paneth, ("Applicant"), the above-named Debtor and Debtor-in-Possession, respectfully shows:

1) On June 19, 2022, the Debtor filed in this Court a Petition, under Chapter 11 of the Bankruptcy Code, to effect a reorganization of his financial status and particularly of his debts owing to his creditors.

2) The Applicant and his wife co-own a residence located at 85 Bolivar Street, Staten Island, New York 10314. They have entered into a Listing Agreement with local Staten Island brokerage DiTommaso Real Estate on June 16, 2022 and they now seek to assume the Contract and retain DiTommaso Real Estate to potentially sell the property to enable Paneth to

reduce their monthly living expenses, and hopefully to attain resolution of his Chapter 11 case in a timely fashion.

Jurisdiction and Venue

3) This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§157 and 1334. Consideration of this Application is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).

4) Venue is proper in this district pursuant to 28 U.S.C. §§1408 and 1409. The statutory predicates for the relief requested herein are Bankruptcy Code §§105(a), 365, 327 and 328.

Relief Requested

5) Pursuant to Sections 365(a), 327(a) and 328(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a) the Debtor requests that the Court approve Assumption of the Contract and Retention of DiTommaso Real Estate as a real estate broker for the Debtor.

6) The Debtor and Debtor-in-possession entered into a Listing Agreement for the Sale of Real Property on June 16, 2022 (**Exhibit A**). The Debtor wishes to assume the contract as beneficial to him and to the bankruptcy estate. The contract calls for 3% real estate commission at the closing which is a very reasonable rate in Staten Island, NY.

7) The Debtor also wishes to continue his cooperation with DiTommaso Real Estate and he requests that this Court approve Retention of DiTommaso Real Estate as a real estate broker for the Debtor.

Effective Date

8) Inasmuch as the within application is being submitted shortly after the filing of the case, request is made that this application be granted, authorizing the Firm's retention,

effective nunc pro tunc from post-petition commencement of services.

Services to be Provided

9) Applicant, as such Debtor and Debtor-in-possession, respectfully submits that it is necessary that the Contract is assumed and the broker be retained in its behalf in this proceeding, effective from the date of filing of the petition for the following purposes:

- a. To market the property and facilitate the sale of 85 Bolivar Street, Staten Island, NY 10314.
- b. To negotiate with the prospective buyers potential inspection issues and best sale options.
- c. To prepare, in Applicant's behalf, necessary binders and disclosure documents.
- d. To navigate the transaction to the closing and to protect Applicant's interests as the seller.

Reasons for Retention of the Firm

10) Applicant knows the brokerage of DiTommaso Real Estate and knows that they are experienced real estate brokers; Applicant has full confidence in the ability of these brokers to handle all phases of this real estate transaction.

11) To the best of Applicant's knowledge, said firm represents no interests adverse to this estate in the matter upon which they are about to be engaged.

12) Applicant desires to assume the Listing Agreement dated June 16, 2022 and to retain said firm of brokers because, of its expertise in real estate transactions.

Notice

13) Notice of this Application has been provided to the Office of the United States Trustee. No Notices of Appearance have been filed. The Debtor submits that under the

circumstances, no other or further notice be given.

Memorandum of Law

14) Because this Application presents no novel issue of law, it is requested that the requirement for a Memorandum of Law be waived.

WHEREFORE, the Debtor prays that he be authorized to assume the Listing Agreement dated June 16, 2022 and to employ and retain the firm of DiTommaso Real Estate to represent him as Debtor and Debtor-in-possession in process of sale of 85 Bolivar Street, Staten Island, NY 10314, effective as of date of filing, that they be authorized to be paid their customary brokerage fees at any real estate closing to be held, and such other and further relief as to this Court may seem just.

Dated: Staten Island, New York
August 30, 2022

_____/s/_____
Mendel Paneth
Debtor and Debtor-in-Possession

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